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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,725

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Philippe Saulnier

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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

07/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,725	<b>Applicant(s)</b> SAULNIER, PHILIPPE	
	<b>Examiner</b> Victor S. Chang	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-45 is/are pending in the application.
- 4a) Of the above claim(s) 26-29, 31-39 and 41-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-25, 30 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/22/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I (claims 20-30, 40 and 41) in the reply filed on 5/21/2008 is acknowledged. Further, applicant's election of Species A (a protective layer or protective coating that is not required to have fibers) is acknowledged. Claims 20-25, 30 and 40 are active. Claims 26-29, 31-39 and 41-45 are withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-23 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Cobbledick [US 3586649].

Cobbledick's invention relates to polyurethane foam. Polyurethane foam is useful as a pad for the seat of an upholstered chair [col. 1, ll. 67-68; col. 14, ll. 30-31]. The foam has open and/or closed cell [col. 1, ll. 52-53; col. 13, ll. 50]. Shaped foam structure is provided with a tough outer protective skin (protective layer). The skin can be formed by spraying or coating with a suitable film forming composition on the foam, or by covering the interior surface of a mold prior to forming the polyurethane foam [col. 2, ll. 2-15]. Useful skin include vinyl plastic sheet formed from plastisol [col. 2, ll. 17].

For claims 20, 22, 23 and 40, since vinyl plastic sheet is necessarily a cured plastisol, which is a liquid prior to curing, and vinyl plastic is inherently formed by radical polymerization, Cobbledick anticipates the claimed invention.

For claim 21, since statements of intended use do not serve to distinguish structure over the prior art, the use language relating to the arrangement of the foam in use has not been given any patentable weight.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 24, 25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobbledick [US 3586649] in view of McGregnor [US 3258511].

The teachings of Cobbledick are again relied upon as set forth above.

For claim 24, Cobbledick is silent about the vinyl plastic as polyvinyl acetate. However, McGregnor's invention relates to polyurethane foam for upholstering furniture [col. 1, ll. 16-18]. An impervious film is provided over the porous surface of the foam [col. 1, ll. 69-72]. Useful films include homopolymer of vinyl acetate [col. 2, ll. 58-63]. It would have been an obvious selection to one of ordinary skill in the art to use polyvinyl acetate as the vinyl plastic in Cobbledick's foam for upholstering.

For claim 25, since the process limitation has not been shown on the record to produce a patentably distinct article, the formed articles are rendered *prima facie* obvious, and this limitation at the present time has not been given patentable weight.

For claim 30, since Cobbledick teaches the same subject matter of the same structure and composition, and for the same use as the claimed invention, a workable skin thickness is deemed to be an obvious routine optimization to one of ordinary skill in the art, motivated by the desire to obtain required properties of the same end use.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 7:00 am - 5:00 pm, Tuesday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor S Chang/  
Primary Examiner, Art Unit 1794